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## MEMO ENDORSED

September 5, 2008

Honorable Colleen McMahon  
United States District Judge  
Southern District of New York  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street  
New York, NY 10007-1312

Re: Gateway, Inc., and Gateway Companies, Inc., v. ACS Commercial  
Solutions, Inc.  
Cause No. 1:07-CV-06732 (CM)

Dear Judge McMahon:

As you will recall on March 14, 2008 at the parties request, you entered a stay in order to allow the parties to use informal means to describe relevant facts and work towards settlement. Unfortunately, settlement efforts have not been successful. The parties are making one last unaided attempt at settlement at the present time.

Please set a Rule 16 conference and set the timetables of Rule 26 in motion to begin this case moving towards judicial resolution. If the current efforts reach a settlement, we will let you know immediately. These efforts will succeed or fail in the next 30 days. Our assumption is that we can not make it on to your calendar in less time.

If you have any questions, please do not hesitate to request any additional information.

*I will schedule Rule 16 conference - you will have 90 days to complete all discovery*

*Colleen McMahon 9/15/08*

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Best regards,

LATHROP & GAGE L.C.

By: 

John T. Walsh

JTW:arg

cc: Howard Shapiro